

ORDINANCE NO. 1538 (2010 Series)

**AN ORDINANCE OF THE CITY OF SAN LUIS OBISPO
AMENDING CHAPTER 2.40 OF THE MUNICIPAL CODE**

WHEREAS, the Council of the City of San Luis Obispo conducted a public hearing in the Council Chamber of City Hall, 990 Palm Street, San Luis Obispo, California, on December 15, 2009, for the purpose of considering changes proposed to amend the Municipal Code.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of San Luis Obispo as follows:

SECTION 1. That the following sections of the San Luis Obispo Municipal Code Chapter 2.40 are hereby amended to read as follows:

2.40.010 Title.

This chapter may be cited as the election campaign regulations of the city.

2.40.020 Purpose and intent.

- A. It is the purpose and intent of this chapter:
1. To promote integrity, honesty and fairness in municipal election campaigns.
 2. To prevent corruption, or the appearance of corruption, which results from the real or imagined influence of large contributions on the conduct or actions of candidates elected to office.
 3. To ensure a level of discussion of public issues adequate for a viable campaign by providing voters with the information necessary to make an assessment of each candidate or measure before voting.
 4. To require public disclosure of campaign contributions and expenditures made in support of or in opposition to candidates or measures in municipal elections.
 5. To place realistic and enforceable limits on the amounts persons may contribute in municipal election campaigns.
 6. To ensure that funds contributed to a campaign committee are used solely for campaign purposes.
 7. To provide full and fair enforcement of all the provisions of this chapter.
- B. By enacting this chapter, the council does not intend to deprive or restrict any citizen of the exercise of rights guaranteed under the United States Constitution and the California Constitution.
- C. The city council takes specific notice of the findings and declarations made in the Political Reform Act and finds and declares them applicable to San Luis Obispo and a basis for enacting this chapter.
- D. It is the intent of this chapter to impose limits on the amount of money that may be contributed to a candidate or controlled committee to achieve the purposes specified in this section. This chapter is not intended, and shall not be construed, to establish any reporting, filing, or procedural requirement in addition to, or different from, the Political Reform Act or the

regulations adopted by the Fair Political Practices Commission (FPPC), except as specifically set forth in sections 2.40.050 and 2.40.090 *infra*.

2.40.030 Definitions.

The terms used in this chapter shall have the same definitions as specified in the Political Reform Act and FPPC regulations. In those cases where definitions in the Political Reform Act or FPPC regulations contain a specific reference to any State election, candidate, or electoral criteria, the definition shall be modified to reflect the municipal equivalent, or, in the absence of a municipal equivalent, to delete the specific reference.

2.40.040 Contribution limitations.

A. Contributions by Persons to Candidates and/or Controlled Committees. No person shall make any contribution to a candidate and/or any controlled committee connected with that candidate, with respect to any single election, which would cause the total amount contributed by such person to the candidate and any controlled committee connected with that candidate, when combined, to exceed two hundred dollars (\$200.00).

B. Acceptance or Solicitation by Candidates or Controlled Committees. No candidate or controlled committee shall solicit or accept any contribution from any person which would cause the total amount contributed by such person, with respect to any single election, to the candidate and/or any controlled committee connected with that candidate, when combined, to exceed the sum of two hundred dollars (\$200.00).

C. Contributions by Candidates. The provisions of subsections A and B of this section shall not apply to contributions from a candidate or from his or her immediate family to any controlled committee connected with that candidate, nor to the expenditure, by the candidate, of his or her personal funds. For purposes of this section, "immediate family" means a candidate's or elected officeholder's spouse or domestic partner, and/or dependent children.

D. Anonymous Contributions. No candidate or controlled committee shall accept anonymous contributions, with respect to any single election, which exceeds fifty dollars (\$50.00). Subject to the provisions of State law, in the event a candidate or controlled committee receives an anonymous contribution that would result in a violation of this subsection, the candidate or controlled committee shall promptly pay that sum to the City for deposit into the general fund to be used to defray the costs of municipal elections.

2.40.50 Election campaign accounts.

A. Campaign bank accounts. An individual who plans to run for a city elective office and who plans to accept contributions and make campaign-related expenditures must set up a campaign bank account at a financial institution with a branch located in the city of San Luis Obispo.

B. Access to records by city clerk. The city clerk shall have full access at all reasonable hours to the bank's records concerning all election campaign accounts.

C. Closing of Account. No later than ninety (90) days following the election, the campaign treasurer shall close the election campaign account in accordance with State law.

D. Disbursement of Unexpended Campaign Funds. If, following the election, the final campaign statement for any committee discloses an unexpended campaign surplus, the campaign treasurer shall disburse the whole of the surplus to the city and/or a nonprofit charitable

organization (qualified for federal income tax exemption) of the candidate's or campaign treasurer's choice. This shall be done no later than ninety (90) days after the election. Alternatively, surplus funds may be used by an unsuccessful candidate for a future election to the same office, provided a form setting forth the intent to run for such office is filed no later than ninety (90) days after the election.

2.40.060 Campaign statements.

A. Required Filing Schedule. Every campaign treasurer shall file with the city clerk:

1. Campaign statements as required by the provisions of the Government Code and in a format acceptable to the city clerk.

2. Supplemental city campaign statements on forms provided by and in a format acceptable to the city clerk at the same time campaign statements are filed as required by the provisions of the Government Code.

B. Contents. Each state campaign statement filed shall contain the information required under the provisions of the Government Code. Each supplemental city campaign statement shall set forth the name, address and amount of the contribution for each person who contributes greater than fifty dollars (\$50), but less than one hundred dollars (\$100), and the total expenditures made by each committee.

C. Filing. Each document required to be filed in this chapter shall be filed with the city clerk during business hours, and elsewhere as may be required by the Government Code.

D. Publication. The city clerk shall promptly, following receipt for filing, post a copy of each campaign statement and supplemental city campaign statement on the City of San Luis Obispo's website for public inspection, redacting personal information in accordance with State law. The city clerk shall report on the website of any candidate and/or committee that has failed to comply by the required deadline with the campaign statement requirements pursuant to this section or state law. In addition, upon receipt of each campaign statement and supplemental city campaign statement the city clerk shall timely cause to be published a display ad in a newspaper of general circulation advising the public how and where to access copies of the filed campaign statements and supplemental city campaign statements on the City of San Luis Obispo's website.

2.40.070 Campaign signs.

A. Severability. This section is a separate and severable provision of the election campaign regulations.

B. Campaign Signs. Campaign signs shall not exceed three square feet per sign in residential zones and ten square feet per sign in nonresidential zones, and shall be removed no later than ten days following the election.

C. Definition. "Campaign sign" means a sign intended to draw attention to or communicate a position on any issue, candidate, or measure in any national, state, local, college or university campus election, the placement of which is in conformity with Section 15.40.300 (Prohibited Signs); and which otherwise is not subject to regulation under Chapter 15.40 (Sign Regulations).

2.40.080 Responsibilities of city clerk.

A. Duties. In addition to any other duties required of the city clerk under this chapter, the city clerk shall:

1. Prescribe and furnish, without charge, appropriate forms for all campaign statements, documents and reports required to be filed by this chapter.
2. Determine whether required statements and declarations have been filed and, if so, whether they conform on their face with the requirements of this chapter.
3. Promptly notify all persons who have failed to file a statement in the form and at the time required by this chapter.
4. Report, in writing, apparent violations of this chapter to the city attorney.
5. Promptly, following receipt for filing, post a copy of each campaign statement on the City of San Luis Obispo's website for public inspection. The city clerk shall report on the website of any candidate and/or committee that has failed to comply by the required deadline with the campaign statement requirements pursuant to this section or state law. In addition, upon receipt of each campaign statement and supplemental city campaign statement, the city clerk shall timely cause such to be published in a display ad in a newspaper of general circulation advising the public how and where to access copies of the filed campaign statements and supplemental city campaign statements on the City of San Luis Obispo's website.
6. Compile and maintain a current log of all filed statements pertaining to each reporting committee.

2.40.090 Criminal misdemeanor actions.

Any person who violates any provision of this chapter is guilty of a misdemeanor. Any person who causes any other person to violate any provision of this chapter, or who aids and abets any other person in the violation of any provision of this chapter, shall be liable under the provisions of this section.

2.40.0100 Civil actions.

A. Any person who intentionally or negligently violates any provision of this chapter shall be liable in a civil action brought by the city attorney or by a person residing within the city for an amount not more than three times the amount of the unlawful contribution or expenditure.

B. If any person files an original city campaign statement after any deadline imposed by this chapter, he or she shall pay, in addition to any other penalties provided for under this chapter, the sum of one hundred dollars per day after the deadline until the statement or report is filed. Liability may not be enforced if on an impartial basis the city clerk determines that the late filing was not willful and that enforcement of the liability will not further the purposes of this chapter. Liability shall not be waived if the supplemental city campaign statement is not filed within five days of the deadline after the city clerk has sent specific written notice of the filing requirement. In addition, the city clerk may assess any applicable fines in accordance with state law.

C. If two or more persons are responsible for any violation, they shall be jointly and severally liable.

D. Any person, before filing a civil action pursuant to this section, shall first file with the city attorney a written request for the city attorney to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. The city attorney shall respond within ten days after receipt of the request indicating whether he or she intends to file a civil action. If the city attorney indicates in the affirmative and files a suit within thirty days thereafter, no other action may be brought unless the action by the city attorney is dismissed without prejudice.

E. In determining the amount of liability, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action, the plaintiff shall receive fifty percent of the amount recovered. The remaining fifty percent shall be deposited into the city treasury. In an action brought by the city attorney, the entire amount shall be paid to the city treasury.

F. No civil action alleging a violation of any provision of this chapter shall be filed more than four years after the date the violation occurred.

2.40.110 Injunctive relief.

The city attorney or any person residing in the city may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this chapter.

2.40.120 Cost of litigation.

The court may award to a plaintiff or defendant who prevails in any action authorized by this chapter his or her costs of litigation, including reasonable attorneys' fees; provided, however, no costs of litigation or attorneys' fees shall be awarded against the city.

2.40.130 Construction of provisions.

A. This chapter shall be in addition to all other city and state laws applicable to municipal elections. Unless the contrary is stated or clearly appears from the context, the definitions and terms set forth in the Government Code shall govern the interpretations of terms used in this chapter. This chapter shall be construed liberally in order to effectuate its purposes.

B. If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the chapter and the applicability of such provision to other persons and circumstances shall not be affected thereby.

2.40.140 Council study committee.

A. Appointment. At least nine months prior to the expiration of this chapter, the council shall appoint a committee of at least five citizens to study the efficacy of this chapter. The committee shall complete its deliberations and report its findings to the city council on or before January 31, 2014.

2.40.150 Expiration of provisions.

Unless readopted, this chapter shall expire on June 30, 2014.

SECTION 2. A summary of this ordinance, together with the names of Council members voting for and against, shall be published at least five (5) days prior to its final passage, in The Tribune, a newspaper published and circulated in this City. This ordinance shall go into effect at the expiration of thirty (30) days after its final passage.

INTRODUCED on the 5th day of January 2010, **AND FINALLY ADOPTED** by the Council of the City of San Luis Obispo on the 19th day of January 2010, on the following vote:

AYES: Council Members Ashbaugh, Marx and Settle, Vice Mayor Carter and Mayor Romero
NOES: None
ABSENT: None

(d)(5)

Mayor David F. Romero

ATTEST:

(d)(5)

Elaina Cano
City Clerk

APPROVED AS TO FORM:

(d)(5)

J. Christine Dietrick
City Attorney

I hereby certify that this document is a true and accurate original of Ordinance No. 1538, and that the ordinance was published pursuant to Charter Section 202.

1-26-10
Date

(d)(5)

City Clerk